

ORDINANCE NO. 48-950

AN ORDINANCE CREATING NEW CHAPTER 3.26 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO PERMITS FOR CHARITABLE SOLICITATION EVENTS AT INTERSECTIONS WITHIN THE CITY OF WICHITA, THE REQUIREMENTS THEREFOR, AND REGULATING THE CONDUCT OF PARTICIPANTS THEREIN.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.26.010 of the Code of the City of Wichita, Kansas, shall read as follows: “**Permit required.** No person shall participate in or engage in activities that comprise a charitable solicitation event at approved intersections within the city limits without first obtaining a permit for such an event as provided in this chapter.

“Charitable solicitation event” is defined to mean an event where persons stand upon a street and/or highway of the city and solicit funds for a charitable organization which would otherwise be in violation of Section 11.44.050(b) of the Code of the City of Wichita.

“Charitable organization” is defined to mean a non-profit organization that has been designated as a 501(c)(3) organization pursuant to the Internal Revenue Code of the United States or has been designated as a charitable organization by the Kansas Secretary of State.

“Approved intersections” are defined to mean those intersections within the City of Wichita at which charitable solicitation events are allowed to occur which have been approved by the Chief of Police or the Chief’s designee in consultation with the city traffic engineer. At no time will charitable solicitation events be allowed at intersections that are under construction, or where road work is ongoing.

SECTION 2. Section 3.26.020 of the Code of the City of Wichita, Kansas, shall read as follows: “**Application for permit.** Any person desiring to participate in or engage in activities that comprise a charitable solicitation event at approved intersections within the city limits shall make application for a permit with the city treasurer’s office. The application shall be on such form and contain such information as the city treasurer shall require, including the following:

- (a) The name and address of the applicant, and personal information, or if the applicant is a firm or corporation, the names, addresses and personal information of persons owning a financial interest therein.
- (b) The name and address of a contact person for the charitable solicitation event, if different from the applicant.
- (c) The name of the charitable organization for which the event is being conducted and proof that the status of the organization meets the definition set forth herein.
- (d) The date(s) and time(s) that the charitable solicitation event(s) will be conducted.
- (e) Proof of liability insurance as required by Section 3.20.040.
- (f) A safety plan as required by Section 3.20.050.

- (g) A statement by the applicant that he or she is at least 21 years of age.
- (h) A statement by the applicant that he or she is familiar with the provisions of this chapter and is complying and will comply with such provisions.
- (i) A statement by the applicant the he or she has not had a permit under this chapter or a similar type of permit or license in any jurisdiction previously suspended or revoked within one year immediately preceding the date of the application.
- (j) The application shall be accompanied by a Charitable Solicitation Event fee of \$100.00.
- (k) Applications shall be submitted no later than five business days prior to the time of the event for which the permit is sought. No permit will be issued if the application is submitted within five business days of the proposed charitable solicitation event.

SECTION 3. Section 3.26.030 of the Code of the City of Wichita, Kansas, shall read as follows: “**Denial of Permit.** An application for a Charitable Solicitation permit may be denied if:

- (a) The applicant is not at least 21 years of age;
- (b) The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process;
- (c) The application is incomplete or does not contain the information required by this chapter;
- (d) The applicant has had a permit under this chapter or a similar type of permit or license in any jurisdiction previously suspended or revoked for

good cause within one year immediately preceding the date of the filing of the application;

- (e) The applicant fails to comply with any conditions of approval including, but not limited to:
 - (1) Remittance of all application and permit fees;
 - (2) Proof of liability insurance as required;
 - (3) Submission of a safety plan as required.
- (f) Charitable organizations are limited to one charitable solicitation event per year, which event shall be no more than three days in duration.
- (g) If a permit application is denied, under the provisions of this section, notice shall be given to the applicant in writing. Such notice shall set forth the reasons for the denial, and shall inform the applicant that such an order may be appealed to the city council by filing a written request with the city clerk within ten calendar days from the date contained on the notice. If an appeal is taken from the denial of a permit application, no permit shall be issued until the matter is resolved by the city council. The city council shall hear the matter on the record and may affirm or reverse the denial. The applicant may appeal the decision of the city council to the district court of the county in the manner provided by state statute. If an appeal is taken from the decision of the city council, no permit shall be issued until the matter is resolved by the district court.”

SECTION 4. Section 3.26.040 of the Code of the City of Wichita, Kansas, shall read as follows: **“Liability Insurance requirement.** The permit holder for a charitable

solicitation event shall procure and maintain in full force and effect during the term of the permit a policy of insurance from an insurance company authorized to do business in the State of Kansas which provides general liability coverage in an amount not less than \$500,000 per occurrence. Proof of insurance shall be submitted to the City prior to issuance of the permit and maintenance of this insurance shall be a condition thereof.”

SECTION 5. Section 3.26.050 of the Code of the City of Wichita, Kansas, shall read as follows: “**Safety Plan.** (a) It is the obligation of the permit holder or responsible party for a charitable solicitation event and a condition of the permit to maintain at all times adequate safety procedures for the conduct of such event.

(b) The permit holder for a charitable solicitation event shall submit with his or her application a written safety plan to insure that all persons participating in the charitable solicitation event will conform to the standards of conduct set forth in Section 3.26.060 and, further, that adequate safety measures will be taken to protect all participants, all traffic laws will be obeyed, and that the age requirements for solicitors and responsible persons at charitable solicitation locations will be observed.”

SECTION 6. Section 3.26.060 of the Code of the City of Wichita, Kansas, shall read as follows: “**Charitable solicitation events - standards of conduct for participants.** Persons who participate in or engage in activities that comprise a charitable solicitation event shall conform to the following standards of conduct:

- (a) Solicitors may only solicit on behalf of charitable organization as defined in Section 3.26.010 of this code.
- (b) Solicitors may only solicit on the dates and times set forth on the permit application submitted for the event.

- (c) All solicitors shall be 18 years of age or older and must carry a valid, government issued, photo I.D. showing the solicitor to be at least 18 years of age on his or her person while engaged in a charitable solicitation event, and such I.D. shall be presented upon request by any officer of the city.
- (d) There shall be at least one person 21 years of age or older present at each intersection while solicitation is occurring who shall be designated as the responsible party for the group and shall be a contact person for police for enforcement of the provisions of this chapter.
- (e) A copy of the permit issued pursuant to this chapter and the approved intersection attachment must be in the possession of the responsible party at each intersection where solicitation is occurring, and shall be presented for inspection when requested to do so by any officer of the city, or by any person being solicited for a contribution.
- (f) Solicitation shall be allowed only at approved intersections and those that are identified on the permit attachment of the charitable solicitation event as intersections where the applicant intended to solicit donations.
- (g) No solicitor shall suddenly leave the curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.
- (h) Solicitors shall stand on a curb or raised median and are allowed to step off the curb or raised median to approach a vehicle only at intersections with stop signs or while the traffic signal has turned red and only while the

signal remains red. Solicitors shall immediately return to the curb or raised median when the signal turns green or when traffic is moving.

- (i) Solicitors shall not approach a vehicle unless a window is down or an occupant has given some sign of assent to be approached.
- (j) Solicitation shall occur only during daylight hours after sunrise and before sunset.
- (k) Each solicitor shall wear a safety vest of a color and material that will enhance visibility and help insure solicitor safety. Identification of the soliciting agency shall be printed or displayed on each safety vest.
- (l) The soliciting organizations shall be identified by prominent signs visible to drivers and held by individuals on the curb, carried or worn by the solicitors, or placed upon a vehicle legally parked in close proximity to the solicitors. Signs or banners displayed at the intersection shall not be posted or affixed to the ground and shall not inhibit or obstruct traffic visibility.
- (m) Identification of the soliciting agency shall be printed or displayed upon all containers used by solicitors to collect monetary donations.

SECTION 7. Section 3.26.070 of the Code of the city of Wichita, Kansas, shall read as follows: **“Enforcement of Standards of Conduct.** Violation of any of the standards of conduct for participants in charitable solicitation events by as set forth in Section 3.26.060 of this chapter by individual solicitors shall be considered a violation of Section 11.44.050(b) of this Code. In addition to issuing a citation to the violator, a law enforcement officer may order that the violator leave the premises of the charitable

solicitation event for the remainder of the event. If the violator is the responsible person for the group of solicitors at an intersection, soliciting shall cease until another individual who qualifies as a responsible person under this chapter is present at the event location.

SECTION 8. Section 3.26.080 of the Code of the city of Wichita, Kansas, shall read as follows: **Permit suspension or revocation.** (a) The chief of police or the chief's designee may suspend or revoke a charitable solicitation event permit under this chapter if it is determined that:

- (1) The permit holder has made any false statement or given any false information in connection with an application for a permit;
- (2) The permit holder or the responsible party supervising solicitations at an intersection has engaged in or has allowed solicitors to engage in activity that endangers the safety of any solicitor or other person or the public at large, or causes an unreasonable risk of damage to either public or private property.
- (3) The permit holder or the responsible party supervising solicitations at an intersection has repeatedly violated or has allowed solicitors to repeatedly violate any of the standards of conduct set forth in Section 3.26.040.

(b) If the chief of police or the chief's designee suspends or revokes a charitable solicitation event permit under the provisions of this section, notice shall be given to the permit holder in writing. Such notice shall set forth the reasons for the suspension or revocation, and shall inform the permit holder that such an order may be appealed to the city council by filing a written request with

the city clerk within ten calendar days from the date contained on the notice. Upon receipt of such notice, the city clerk shall notify the chief of police who shall forward all relevant information and exhibits to the city clerk within ten days. Any appeal taken from an order of the chief of police or the chief's designee shall stay the order of suspension or revocation until the matter is resolved by the city council.

The city council shall hear the matter on the record and may affirm or reverse in full or in part the action of the chief of police or the chief's designee. The permit holder may appeal the decision of the city council to the district court of the county in the manner provided by state statute. If the decision of the chief of police or the chief's designee is reversed in full or in part, the permit holder shall be granted a permit to conduct an addition charitable solicitation event within the calendar year period. Any appeal to the district court shall not stay the order of the city council.

(c) Any permit holder who has his or her permit revoked or suspended pursuant to this section, as well as the charitable organization for which the permit holder was soliciting donations at the time the conduct occurred which gave rise to the suspension of such permit shall be ineligible to receive a permit for any other charitable solicitation event under this chapter for a period of three calendar years from the date of suspension or revocation.

SECTION 9. Section 3.26.090 of the Code of the City of Wichita, Kansas, shall read as follows: “**Violation – Penalty.** Any person violating any provision of this

chapter is guilty of a misdemeanor and shall be punished by a fine of not more than \$500.”

SECTION 10. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon adoption and publication in the official city newspaper.

PASSED by the governing body of the City of Wichita, Kansas, this 8th day of March, 2011.

Carl Brewer, Mayor

Attest:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law